IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 691 of 2005 (S/S)

1. Mohan Singh Negi
S/o Shri Ram Singh Negi
R/o Village Basoli
P.O. – Bhansori
District – Almora …Petitioner

versus

1. State of Uttar Pradesh
through its Chief Secretary, Dehradun

2. Principal Secretary, Labour, Training & Employment
State of Uttaranchal, Dehradun

3. Commissioner, Kumaon Division
Nainital

4. Director, Training & Employment, Uttaranchal,
Haldwani, District – Nainital

5. M/s Kumaon Mandal Vikas Nigam Ltd.,
through its Managing Director, Oak Park,
Nainital, District – Nainital …Respondents

Sri I.P. Gairola, learned counsel for the petitioner.

Hon'ble B.C. Kandpal, J.

By means of this Writ Petition, the petitioner has sought a writ in the nature of certiorari quashing the advertisement dated 17.05.2005 and further a mandamus has also been sought for absorption of the petitioner by appointing him on the post of Instructor against the existing vacancy as on 01.04.1996 and also for payment of wages.

Brief facts as narrated in the writ petition are that the petitioner was appointed as Technician in M/s Teletronix Ltd. on 07.07.1990. M/s Teletronix Ltd. was Government owned company registered under the Indian Company Act and is a subsidiary of Kumaon Mandal Vikas Nigam Limited and Government of Uttar Pradesh vide its notification dated

30.12.1995 took a policy decision to windup the Telectronix Limited. In consequence of the decision of winding up of the company, the employees of the Teletronix Limited were to be absorbed in different Government Departments, Corporations etc. by granting the age relaxation for the appointment.

The Government order dated 26.02.1996 was issued for absorption of the retrenched employees of the Teletronic Limited.

It is alleged by the petitioner that as per the Government order he has not been appointed as Instructor instead the respondent no. 2 has started recruitment process for filing up of the existing vacancy. Not only that it is also alleged that other similarly situated employees have been given jobs in pursuance of aforesaid Government order and letter dated 25.04.1996 which was also issued by the Principal Secretary, Uttarakhand Vikas Vibhag, Government of U.P.

Heard learned counsel for the petitioner and perused the record.

The short question for consideration for this court is whether the petitioner is entitle to be given appointment as Instructor in compliance of the Government order dated 39.12.1995 and 26.02.1995 with full salary w.e.f. 1st April, 1996 or not.

Admittedly, the petitioner was holding the post of the Technician. Para 3 of the Government Order No. 257 dated 26.02.1996 issued by the uttarakhand Vikas Vibhag reads as under :

''सरकारी सेवा / निगमों / उपक्रमों की सेवा में भर्ती हेतु निर्धारित न्यूनतम शैक्षिक अर्हता तथा अनुभव विपयक शर्तें पूरा करने वाले टेलीट्रानिक्स / कुमायूँ टेलीविजन लिमिटेड कर्मचारि / अधिकारी ही उक्त सेवायोजन हेतु पात्र होंगे। यदि ऐसे कर्मचारी टेलीट्रानिक्स / कुमायुँ ठेलीविजन लिमिटेड में ऐसे पद पर नियुक्त हुए थे जिनका कर्तव्य तथा उत्तरदायित्व उस पद के समान है, जिस पद के लिए निर्धारित शैक्षिक योग्यता रखते थे, तो यह समझा जायेगा कि वे

वर्तमान पद के लिए जिसके लिए अब वे अभ्यथी है, अपनी नियुक्ति के सबब उपरोक्त पद के लिए निर्धारित शैक्षक अर्हता पूर्ण करते है।''

So, in view of aforesaid para, it can very well be said that the petitioner fulfilled the qualification for the appointment / absorption because entire Government order is to be read as a whole wherein it has been mentioned that the retrenched employee will be given appointment in accordance with the law of the service rule of 1991.

In view of the aforesaid Government Order, it was incumbent upon the respondents authority to provide suitable employment to the all wind up corporations, i.e., Teletronic Limited.

The petitioner has filed certain copies of the judgment passed by this court earlier in the matter of other retrenched employees of the Teletronic Limited as well as Kumaon Television Limited and it reveals from the perusal of those judgments that this court had allowed the petitions filed by other retrenched employees and directed the respondents to provide the job to the petitioners in compliance of the Government Order stated above.

Accordingly, the writ petition is allowed. The respondents are directed to give appointment to the petitioner as Instructor in compliance of the Government Order dated 30.12.1995 and 26.02.1996 with full salary w.e.f. 01.04.1996 within a period of three months.

No order as to costs.

With these observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

7th June, 2005
Shiv